

EXHIBIT 8

COPY

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3

4 XEROX CORPORATION :

5 Plaintiff :

6 Vs. : CIVIL ACTION NO.

7 PHOENIX COLOR CORPORATION : L 02CV 1734

8 and :

9 TECHNIGRAPHIX, INCORPORATED :

10 Defendants :

11

12

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14 Deposition of ROSALIA T. GIANOLA, taken
15 on Tuesday, March 4, 2003, at 12:40 p.m., at the
16 law offices of Piper Rudnick, LLP, 6225 Smith
17 Avenue, Baltimore, Maryland, before Bonnie L.
18 Russo, Notary Public.

19

20 Reported by:

21 Bonnie L. Russo

CRC-SALOMON
Baltimore, Maryland
Phone (410) 821-4888 Fax (410) 821-4889



1 STATE OF MARYLAND

2 SS:

3 I, BONNIE RUSSO, a Notary Public of the
4 State of Maryland, do hereby certify that the
5 within named, ROSALIA GIANOLA, personally
6 appeared before me at the time and place herein
7 set out, and after having been duly sworn by me,
8 was interrogated by counsel. I further certify
9 that the examination was recorded
10 stenographically by me and this transcript is a
11 true record of the proceedings.

12 I further certify that I am not of counsel
13 to any of the parties, nor an employee or
14 counsel, nor related to any of the parties, nor
15 in any way interested in the outcome of this
16 action.

17 As witness my hand and notarial seal this
18 17th day of March, 2003.

19
20 My commission expires: _____

21 August 25, 2004 Notary Public

CRC-SALOMON
Baltimore, Maryland
Phone (410) 821-4888 Fax (410) 821-4889

1 Q. But why are you suing Phoenix Color for
2 this agreement when Technigraphix is clearly
3 identified as the contracting party?

4 A. They bought the assets of Technigraphix.

5 Q. What makes you think they bought the
6 assets of Technigraphix?

7 A. There is a stock purchase.

8 Q. Is that your sole basis for why you are
9 suing Phoenix Color based upon this 1997
10 agreement with Technigraphix?

11 MR. FRIEDMAN: Objection. Sole basis
12 will be made known once we have had a chance to
13 review the documents which you turned over today
14 which we asked for a month ago.

15 MR. GAUMONT: Fair enough. She can
16 testify as far as she knows in terms of factual
17 basis. I am not asking for legal conclusions.
18 If her basis is based upon what she thinks may be
19 in the documents that we produced I would like
20 her to say so.

21 THE WITNESS: Repeat your question

1 Q. Looking at this folder as well as your
2 response to 666027669 can you tell me what
3 equipment is being pooled?

4 A. Eight pieces of equipment.

5 Q. Do you know what type of equipment it
6 is?

7 A. Looks like two 6180s, some controller
8 2Cs.

9 Q. What are you looking at to get that? I
10 want to make sure that is down.

11 A. On the answers to number 6 I had
12 outlined when I mentioned a serial number what
13 type of equipment it was further on into the
14 answer.

15 Q. So sometimes when there is nothing but a
16 product serial number the explanation of what
17 that serial number comes later?

18 A. Yes.

19 Q. That is helpful. So then looking at the
20 next interrogatory responses can you tell me what
21 equipment is covered by the customer number

1 666027669?

2 A. Yes. Do you want me to go per serial
3 number and what it is?

4 Q. Yes.

5 A. K8V100225. I don't know what a K8V is
6 offhand. I have to look it up.

7 Q. When you say look it up what do you
8 mean?

9 A. Look up a K8V. All serial numbers start
10 with a product code. I have to look up what a
11 K8V stands for. The next code is R9H and an R9H
12 is a controller 2C. A V6T is a Digipath. An OGV
13 is Digipath PC. And an 8VE is a product code for
14 a 6180 PMF.

15 Q. So the 8VE is the product code for 6180
16 machines?

17 A. Yes.

18 Q. Do you have any breakdown anywhere in
19 your discovery responses as to how much Xerox is
20 seeking to recover based upon each product?

21 A. Based upon each product? No. I did the

1 itemization per customer number and per contract,
2 not per product. You may have one product
3 billing under several account numbers. The end
4 result would be the same. The total amount
5 outstanding.

6 Q. You may have one contract covering a
7 number of different products, too?

8 A. Yes.

9 Q. I would like you to identify the
10 contracts at issue with respect to 666027669.
11 Could you tell me what the contracts are at
12 issue?

13 A. Looks like eight term lease agreements.

14 Q. And what I am asking you is whether
15 looking through the package of documents that you
16 produced in response to these discovery requests
17 can you pull for me where those actual agreements
18 are?

19 MR. FRIEDMAN: He means physically go in
20 the folder and show him.

21 THE WITNESS: It is probably in a

1 different folder. I have to figure out which
2 folder it is in.

3 BY MR. GAUMONT:

4 Q. In order to find the contracts in
5 response to customer number 666027669 one would
6 have to actually look through a different folder?

7 A. That's for the pooling agreement which I
8 state I couldn't find a pooling agreement. The
9 underlying agreements are, for example -- first,
10 for example, 950697 -- that's the wrong number.
11 Scratch that.

12 For example, 955946066 is in folder
13 098663859.

14 Q. Well, then explain that to me. Could
15 you repeat that contract number again.

16 A. 955946066 is in folder 098663859. Once
17 the pooling agreement is cancelled the underlying
18 term lease agreements, they bill under their
19 separate lease agreements.

20 Q. Explain to me because as I understand it
21 955946066, right?

1 A. Yes.

2 Q. Is under customer number 666027669?

3 A. The pooling agreement.

4 Q. It's under that number but also another
5 customer --

6 A. 098663859.

7 Q. Okay. Now, it's listed as part of
8 666027669 where you are seeking to cover from
9 Phoenix Color \$223,390.41?

10 A. Yes.

11 Q. And the same lease agreement is listed
12 under customer number 098663859 where you are
13 seeking to recover from Phoenix Color
14 \$606,383.30. Why is that?

15 A. Well, actually for that particular
16 contract it's \$34,674.17. It's itemized per
17 contract.

18 Q. Why does that lease agreement support
19 both customer numbers?

20 A. There are different time frames. The
21 first customer number is for when it was under

1 the pooling agreement. When it was cancelled the
2 invoices -- different invoices force different
3 time periods and started generating under that
4 contract which was configured to this customer
5 number 098663859.

6 If you look at the invoice it's for
7 different time frames.

8 Q. Why is there an X next to the customer
9 number 098663859 as opposed to a response like
10 pooling agreement or term lease which you put to
11 the other?

12 A. The X signifies that it is a financed
13 agreement. These are all financed agreements.

14 Q. Have you produced those financed
15 agreements?

16 A. I believe so. If I didn't indicate that
17 I found it it's in the documents produced.

18 Q. But you haven't been able to find the
19 pooling agreement for customer number 666027669?

20 A. No, I have not.

21 Q. And you can't tell me who executed it or

1 whether it's in the name of Technigraphix or
2 Phoenix Color?

3 A. The pooling agreement, no.

4 Q. Can you even tell me whether the pooling
5 agreement is in some other corporate entity's
6 name other than Technigraphix or Phoenix Color?
7 Do you have any idea?

8 A. The pooling agreement?

9 Q. The pooling agreement?

10 A. It should match the underlying
11 agreements. If the underlying agreements are for
12 Phoenix Color the pooling agreement should be for
13 Phoenix Color.

14 Q. So then in the response to the request
15 for contracts covered by customer number
16 666027669 you have to refer to other customer
17 numbers to obtain the underlying lease
18 agreements; is that accurate?

19 A. For the contract copy?

20 Q. Yes.

21 A. Yes. I have signified what the lease

agreement is. For example, here is another one right here, 950698639. The underlying lease agreement would be in 941137127.

Q. And my question is based upon that and this is a good example because 94 -- customer 941137127 contains the identification of one lease agreement and that's 950869639 for 6180. It appears you are attempting to recover \$249,310.33, right?

A. Yes.

Q. But it also is part of the basis of the pooling agreement that you are attempting to recover \$223,390.41 under customer number 666027669?

A. Yes.

Q. Does that mean for a particular point these charges in that lease agreement were pooled or does that mean that they were charged individually at one point?

A. The pooling agreement would have the underlying term lease agreements, their monthly

1 base charge. Their term lease payment would be
2 on one invoice and then the meters would be
3 pooled. So this -- the pooling agreement might
4 have six months worth of term lease invoices for
5 that 6180.

6 The pool is dissolved or we stop
7 billing on the pool. The underlying agreement
8 still goes on. The pooling agreement is for
9 billing purposes for the customer to work to the
10 customers's benefit in regard to excess meters.
11 The underlying agreement is always the term lease
12 agreement. It happens to be billed on two
13 separate account numbers. There is only one
14 lease agreement for the 6180.

15 Q. There is only one lease agreement for
16 the 6180?

17 A. Yes.

18 Q. I am asking you why you are claiming
19 that it can be billed \$249,310 as well as part of
20 your demand for \$223,390?

21 MR. FRIEDMAN: She just answered that

1 for you.

2 BY MR. GAUMONT:

3 Q. Explain it one more time because I am
4 not getting it.

5 A. For that serial number under pooling
6 agreement there are specific invoices. The
7 pooling agreement ended and this 249,000 is
8 probably -- it can be subsequent invoices after
9 the pooling agreement had ended. It could be --
10 most likely it's the principal balance remaining
11 under the lease agreement.

12 Q. Okay. Okay. So the pooling agreement
13 covered a particular time period. The lease
14 agreement that is not part of the pooling
15 agreement covered a time period not -- or it
16 covered the principal balance which is not
17 covered?

18 A. Right. There is no overlap in time.
19 It is one lease. Different time period.

20 Q. That's what I was looking for is whether
21 there was an overlap in time?

A. No.

Q. Can you tell me when each of these were covered by?

A. On the pooling agreement, you can look at the pooling invoices that were provided. It would outline the time period. For one you pull out the 941137127. I can show you from the statement what time period it covers.

Q. Why don't we do that then.

Let me show you the documents which we received in folder -- this is the same as customer number 941137127.

I would like for you to identify the contracts that are involved with that.

A. 950869639.

Q. Right. I would like you to look through the documents.

A. It's a term lease contract. Term lease contract between Phoenix Color Corporation and Xerox signed by Donald Tyler on December 10, '99.

Q. Now, you just said that the lease term

of this is different than the term that was covered by the pooling agreement, right? When I was asking you why you were able to recover for the same XEEP number under two different customer numbers --

A. It would still be a 59 month agreement. Just the time period would be different. Different months would be involved. It's still -- the underlying term lease agreement is still the contract.

Q. This contract was entered into on December 10, 1999. At least that is what it says in the lower right-hand corner?

A. Yes.

Q. And the XEEP number for this contract is 950869639.

A. It's a type 950698639.

MR. FRIEDMAN: Read it again.

THE WITNESS: 950698639.

BY MR. GAUMONT:

Q. Now, under this lease agreement does

1 this lease agreement support Xerox's claim for
2 \$249,310.33 under customer number 941137127 or
3 does it support Xerox's claim of the \$223,390.41
4 under customer number 666027669?

5 MR. FRIEDMAN: Objection.

6 THE WITNESS: This contract supports in
7 its entirety 249,310.33 under 941137127 and in
8 part some of the charges under account number
9 666027669. For \$223,390.41. There are other
10 leases that total up to this. It is not just for
11 one machine. There are eight leases.

12 BY MR. GAUMONT:

13 Q. And for what time period does it support
14 the customer number 941137127 versus the time
15 period when it covers 666027669?

16 A. For 941137127 looking at the statement
17 of account, which was provided, the term lease
18 charges are from looks to be December 27, 2000.
19 That's the principal balance remaining. And the
20 option to purchase December 27, 2000. And the
21 invoices were provided.